

REMARKS

The Final Office Action mailed April 8, 2003 (Paper No. 26) and the Advisory Action mailed September 10, 2003 (Paper No. 20030805) have been carefully reviewed and the following is made in response thereto. Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Status of the Claims

Claims 35-41 are pending.

The Rejections under 35 U.S.C. § 112 First Paragraph

Applicants acknowledge, with appreciation, withdrawal of the rejection of claims 39-41 under 35 U.S.C. § 112, first paragraph for allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to a person having skill in the art that the inventor had possession of the claimed invention at the time of filing.

Claims 35-41 remain rejected under 35 U.S.C. § 112, first paragraph, because it is alleged that the claims contain subject matter which was not described in the specification in such a way as to enable a person having skill in the art to make and/or use the invention. Applicants respectfully traverse the rejection for the following reasons:

The Advisory Action mailed September 10, 2003 has maintained this rejection because it is alleged that "the discussion in the specification regarding the expression of mutant desaturase genes in plants is merely prophetic." Advisory Action, Continuation Sheet. Applicants respectfully disagree.

Example 4 describes using a castor hydroxylase gene, which is a mutant form of a fatty acid desaturase gene, to alter the level of fatty acid unsaturation in transgenic plants.

Respectfully, the discussion in Example 4 is not merely prophetic.

Throughout the specification, and especially on pages 10-12, Applicants assert that castor oleate hydroxylase can be considered to be a structurally modified fatty acyl desaturase. See page 10, lines 2-4. Applicants present three separate arguments in the specification to support this. See page 10, line 4 to page 11, line 2. These arguments are based on 1) the taxonomic

distribution of plants containing ricinoleic acid (page 10, lines 4-19); 2) the similarity in biochemical characteristics between castor kappa hydroxylase and the microsomal desaturases (page 10, lines 20-29); and 3) the discussion of the oxygenase cofactors (see paragraph spanning pages 10-11).

In view of the foregoing, Applicants respectfully assert that the specification enables the claimed invention. Withdrawal of the rejection is requested.

Conclusion

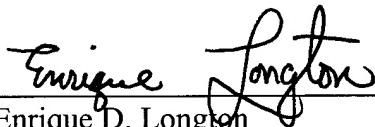
In view of the foregoing remarks, Applicants respectfully request withdrawal of all outstanding rejections and early notice of allowance to that effect. Should the Examiner believe that a telephonic interview would expedite prosecution and allowance of this application, she is encouraged to contact the undersigned at her convenience.

Except for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No.50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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